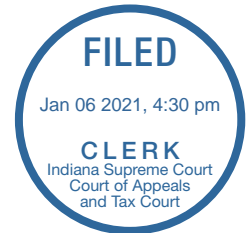


In the Indiana Supreme Court

In the Matter of the
Indiana Innovation Initiative

Supreme Court Case No.
21S-MS-2



Order Establishing Innovation Initiative Pilot Project Permitting Pretrial Diversion Offer Before the Initial Hearing

On September 24, 2019, this Court issued an Order establishing the Indiana Innovation Initiative and two subsidiary groups, the Family Law Taskforce and the Technology Working Group to analyze research on justice reform, assess the impact of reform efforts in other states, identify innovative strategies to manage different case types, and make recommendations to the Indiana Supreme Court for best practices surrounding Indiana's justice system structures and procedures.

Members of the Innovation Initiative and its Technology Working Group recommended a pilot project in which prosecutors be permitted to offer pretrial diversion before the initial hearing, with the following goals: (1) defendants would not be required to attend the initial hearing if they elect to participate in the pretrial diversion program; (2) defendants would be able to start and finish the diversion program sooner than if the diversion were offered at or after the initial hearing; and (3) criminal justice resources would be conserved and redirected to more serious crimes.

To ensure fairness and protect the rights of all involved, the terms of pilot program, the text of the pretrial diversion offer letter, and the text of the agreement to participate have been agreed to by the Executive Directors of the Indiana Public Defender Council and the Indiana Prosecuting Attorneys Council and approved by the Judge of each trial court participating in this pilot program.

This pilot applies only to defendants charged with the following offenses:

Offense Name	Statute
Disorderly Conduct	35-45-1-3(a)(1)
Driving While Suspended (w/ prior)	9-24-19-2
Illegal Possession of an Alcoholic Beverage	7.1-5-7-7(a)(1)
Operating a Motor Vehicle Without Ever Receiving a License	9-24-18-1
Possession of a Controlled Substance	35-48-4-7(a)

Offense Name	Statute
Possession of Marijuana	35-48-4-11(1)
Possession of Paraphernalia	35-48-4-8.3(b)(1)
Public Intoxication	7.1-5-1-3(a)(1)
Reckless Driving	9-21-8-52(a)(1)
Visiting a common nuisance	35-45-1-5

This pilot shall run from the date of this order through June 30, 2021 in the following courts:

- 14D01 Daviess Superior Court
- 37C01 Jasper Circuit Court
- 37D01 Jasper Superior Court
- 39D01 Jefferson Superior Court
- 45D07 Lake Superior Court, County Division 1
- 45D08 Lake Superior Court, County Division 2
- 45D09 Lake Superior Court, County Division 3
- 45D12 Lake Superior Court, County Division 4

Notwithstanding the prohibitions against a prosecutor seeking waiver of pretrial rights from an unrepresented accused in Rule 3.8(c) of the Indiana Rules of Professional Conduct, the Court ORDERS that a prosecutor participating in this pilot may offer pretrial diversion to an accused person charged with the offenses listed below before an initial hearing provided the offer informs the accused (1) of the right to an initial hearing, (2) of the right to retain counsel or have one appointed, and (3) that acceptance of the offer is not, and cannot be construed as, an admission of guilt. A prosecutor who offers pretrial diversion to an accused before an initial hearing does not violate Rule 3.8(c) as long as the procedure for obtaining counsel is included in the offer of pretrial diversion to that individual.

Done at Indianapolis, Indiana, on 1/6/2021.



Loretta H. Rush
Chief Justice of Indiana